

AMENDED IN SENATE APRIL 19, 2007

AMENDED IN SENATE APRIL 9, 2007

**SENATE BILL**

**No. 39**

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**Introduced by Senator Migden**

December 12, 2006

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An act to amend Section 827 of, and to add Section 10850.4 to, the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 39, as amended, Migden. ~~Dependent children and wards of the juvenile court: case file confidentiality. County welfare agencies: child abuse and neglect: files.~~

(1) Existing law requires the case file of a dependent child or ward of the juvenile court to be kept confidential, except as specified. Existing law permits the juvenile case files that pertain to a deceased child who was within the jurisdiction of the juvenile court, as provided, to be released to the public after a petition has been filed and interested parties have been afforded an opportunity to file an objection, subject to certain limitations.

This bill would revise ~~these~~ *those* provisions and *instead* require that juvenile case files relating to a dependent child or a ward of the juvenile court *any child* who died or suffered a near death injury as a *the* result of child abuse or neglect shall be released to the public, subject to certain limitations set forth in the bill.

(2) Existing law provides for a system of child welfare services administered by each county, with oversight by the State Department of Social Services.

This bill would require ~~a~~ *the* custodian of juvenile case file records within a county welfare department to disclose, within ~~10~~ 5 days from

a request, or upon the disposition of an investigation, whichever occurs last ~~substantiation or inconclusiveness, specified~~ records of a juvenile case file, subject to the redaction of certain identifying personal information in any substantiated case, as defined, of child abuse or neglect that results in the death or near death of a child.

~~The~~

~~This bill would also require all county welfare departments to notify the department, as provided, of all child fatalities or near fatalities that occurred within its jurisdiction that were the result of child abuse or neglect, and would require the department to prepare and release to the public a report and a summary relating to the information provided by the counties establish a procedure for that notification.~~

~~By increasing the duties of local agencies, this bill would create impose a state-mandated local program.~~

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. *The Legislature finds and declares the following:*

2     (a) *During 2004, approximately 140 children in California were*  
3 *officially reported as having died as a result of abuse or neglect.*  
4 *The State Death Review Council has concluded that official reports*  
5 *of child abuse deaths represent a significant undercount of the*  
6 *actual number of child abuse and neglect fatalities.*

7     (b) *A child's death from abuse or neglect often leads to calls*  
8 *for reform of the public child protection system. Without accurate*  
9 *and complete information about the circumstances leading to the*  
10 *child's death, public debate is stymied and the reforms, if adopted*  
11 *at all, may do little to prevent further tragedies.*

12     (c) *Providing public access to juvenile case files in cases where*  
13 *a child fatality occurs as a result of abuse or neglect will promote*  
14 *public scrutiny and an informed debate of the circumstances that*

1 led to the fatality thereby promoting the development of child  
2 protection policies, procedures, practices, and strategies that will  
3 reduce or avoid future child deaths and injuries.

4 (d) The current procedures for accessing information about a  
5 child's death from abuse or neglect are costly, at times resulting  
6 in lengthy delays in the release of that information, fail to provide  
7 adequate guidance for what information should and should not  
8 be disclosed, and permit significant variation from one jurisdiction  
9 to another in the nature and extent of the information released.

10 (e) The federal Child Abuse Prevention and Treatment Act (42  
11 U.S.C. Sec. 5106a; hereafter CAPTA) provides grants to states  
12 whose laws allow public disclosure of findings and information  
13 in cases of child abuse or neglect that resulted in a child fatality.  
14 The CAPTA disclosures are an explicit exception to general  
15 confidentiality laws and are intended to ensure that the public has  
16 access to information in order to prevent tragedies from recurring.  
17 California receives funds under CAPTA that are used to support  
18 its child protection system and the state is therefore obligated to  
19 comply with the public disclosure provisions of CAPTA.

20 (f) It is the intent of the Legislature to maximize public access  
21 to juvenile case files in cases where a child fatality occurs as a  
22 result of child abuse or neglect by removing legal impediments to  
23 public agency disclosure of these records while also ensuring that  
24 basic privacy protections are consistently afforded.

25 ~~SECTION 1. The Legislature finds and declares all of the~~  
26 ~~following:~~

27 ~~(a) During 2004, approximately 140 children in California were~~  
28 ~~officially reported as having died as a result of abuse or neglect.~~  
29 ~~The official reports are believed to significantly underreport the~~  
30 ~~actual number of child abuse victims who suffered fatal injuries.~~  
31 ~~No data on the number of children who suffer near fatal injuries~~  
32 ~~as a result of abuse or neglect are reported.~~

33 ~~(b) Providing public access to child case files in cases where a~~  
34 ~~child fatality or near fatality occurs as a result of abuse or neglect~~  
35 ~~will promote public discourse and examination of the circumstances~~  
36 ~~that led to the fatality or near fatality, thereby promoting the~~  
37 ~~development of child protection policies, procedures, practices,~~  
38 ~~and strategies that will reduce or avoid future incidents of child~~  
39 ~~abuse.~~

1 ~~(e) The current procedures for accessing information about a~~  
2 ~~child's death from abuse or neglect are costly and, at times, result~~  
3 ~~in lengthy delays in the release of this information, fail to provide~~  
4 ~~adequate guidance for what information should and should not be~~  
5 ~~disclosed, and permit significant variation from one jurisdiction~~  
6 ~~to another in the nature and extent of the information released.~~

7 ~~(d) The federal Child Abuse Prevention and Treatment Act~~  
8 ~~(CAPTA) (42 U.S.C. 5106a) provides grants to states whose laws~~  
9 ~~allow public disclosure of findings and information in cases of~~  
10 ~~child abuse or neglect that resulted in a child fatality or near~~  
11 ~~fatality. CAPTA disclosures are an explicit exception to the general~~  
12 ~~confidentiality laws and are intended to ensure that the public has~~  
13 ~~access to information in order to prevent tragedies from recurring.~~  
14 ~~California receives funds under CAPTA that are used to support~~  
15 ~~its child protection system, and the state is therefore obligated to~~  
16 ~~comply with the public disclosure provisions of CAPTA.~~

17 ~~(e) It is the intent of the Legislature, by adopting this act, to~~  
18 ~~maximize public access to juvenile case files in cases where a child~~  
19 ~~fatality or near fatality occurs as a result of child abuse or neglect,~~  
20 ~~by removing legal impediments to public agency disclosure of~~  
21 ~~these records while also ensuring that basic privacy protections~~  
22 ~~are afforded to surviving children throughout the state.~~

23 SEC. 2. Section 827 of the Welfare and Institutions Code is  
24 amended to read:

25 827. (a) (1) Except as provided in Section 828, a case file  
26 may be inspected only by the following:

- 27 (A) Court personnel.  
28 (B) The district attorney, a city attorney, or city prosecutor  
29 authorized to prosecute criminal or juvenile cases under state law.  
30 (C) The minor who is the subject of the proceeding.  
31 (D) The minor's parents or guardian.  
32 (E) The attorneys for the parties, judges, referees, other hearing  
33 officers, probation officers, and law enforcement officers who are  
34 actively participating in criminal or juvenile proceedings involving  
35 the minor.  
36 (F) The superintendent or designee of the school district where  
37 the minor is enrolled or attending school.  
38 (G) Members of the child protective agencies as defined in  
39 Section 11165.9 of the Penal Code.

1 (H) The State Department of Social Services, to carry out its  
2 duties pursuant to Division 9 (commencing with Section 10000),  
3 and Part 5 (commencing with Section 7900) of Division 12, of the  
4 Family Code to oversee and monitor county child welfare agencies,  
5 children in foster care or receiving foster care assistance, *and*  
6 out-of-state placements, and ~~the public disclosure of case files~~  
7 ~~made pursuant to~~ Section 10850.4.

8 (I) Authorized legal staff or special investigators who are peace  
9 officers who are employed by, or who are authorized  
10 representatives of, the State Department of Social Services, as  
11 necessary to the performance of their duties to inspect, license,  
12 and investigate community care facilities, and to ensure that the  
13 standards of care and services provided in those facilities are  
14 adequate and appropriate and to ascertain compliance with the  
15 rules and regulations to which the facilities are subject. The  
16 confidential information shall remain confidential except for  
17 purposes of inspection, licensing, or investigation pursuant to  
18 Chapter 3 (commencing with Section 1500) and Chapter 3.4  
19 (commencing with Section 1596.70) of Division 2 of the Health  
20 and Safety Code, or a criminal, civil, or administrative proceeding  
21 in relation thereto. The confidential information may be used by  
22 the State Department of Social Services in a criminal, civil, or  
23 administrative proceeding. The confidential information shall be  
24 available only to the judge or hearing officer and to the parties to  
25 the case. Names that are confidential shall be listed in attachments  
26 separate to the general pleadings. The confidential information  
27 shall be sealed after the conclusion of the criminal, civil, or  
28 administrative hearings, and may not subsequently be released  
29 except in accordance with this subdivision. If the confidential  
30 information does not result in a criminal, civil, or administrative  
31 proceeding, it shall be sealed after the State Department of Social  
32 Services decides that no further action will be taken in the matter  
33 of suspected licensing violations. Except as otherwise provided in  
34 this subdivision, confidential information in the possession of the  
35 State Department of Social Services may not contain the name of  
36 the minor.

37 (J) Members of children’s multidisciplinary teams, persons, or  
38 agencies providing treatment or supervision of the minor.

39 (K) A judge, commissioner, or other hearing officer assigned  
40 to a family law case with issues concerning custody or visitation,

1 or both, involving the minor, and the following persons, if actively  
2 participating in the family law case: a family court mediator  
3 assigned to a case involving the minor pursuant to Article 1  
4 (commencing with Section 3160) of Chapter 11 of Part 2 of  
5 Division 8 of the Family Code, a court-appointed evaluator or a  
6 person conducting a court-connected child custody evaluation,  
7 investigation, or assessment pursuant to Section 3111 or 3118 of  
8 the Family Code, and counsel appointed for the minor in the family  
9 law case pursuant to Section 3150 of the Family Code. Prior to  
10 allowing counsel appointed for the minor in the family law case  
11 to inspect the file, the court clerk may require counsel to provide  
12 a certified copy of the court order appointing him or her as the  
13 minor's counsel.

14 (L) A court-appointed investigator who is actively participating  
15 in a guardianship case involving a minor pursuant to Part 2  
16 (commencing with Section 1500) of Division 4 of the Probate  
17 Code and acting within the scope of his or her duties in that case.

18 (M) A local child support agency for the purpose of establishing  
19 paternity and establishing and enforcing child support orders.

20 (N) Juvenile justice commissions as established under Section  
21 225. The confidentiality provisions of Section 10850 shall apply  
22 to a juvenile justice commission and its members.

23 (O) Any other person who may be designated by court order of  
24 the judge of the juvenile court upon filing a petition.

25 ~~(2) (A) Notwithstanding any other provision of law, juvenile~~  
26 ~~case files relating to a child who was subject to the jurisdiction of~~  
27 ~~the juvenile court pursuant to Section 300, and who died or suffered~~  
28 ~~a near death injury as a result of child abuse or neglect, shall be~~  
29 ~~released by the custodian of the records to the public pursuant to~~  
30 ~~Section 10850.4.~~

31 ~~(B) (i) Any person who objects to the withholding or redaction~~  
32 ~~of information, made pursuant to subdivision (d) of Section~~  
33 ~~10850.4, of the juvenile case file may petition the juvenile court~~  
34 ~~for the release of the withheld or redacted information. Within 10~~  
35 ~~days of the filing of the request for further information pursuant~~  
36 ~~to this clause, the juvenile court shall serve upon the attorney for~~  
37 ~~the deceased child or the child who suffered a near fatal injury a~~  
38 ~~copy of the request. The notice shall also direct that counsel file~~  
39 ~~objections, if any, within 10 days of receipt of the notice. A copy~~  
40 ~~of the objections shall be served on the requesting party who shall~~

1 have a right to file a response to the objections within five days  
2 after service. The juvenile court shall set the matter for hearing no  
3 more than 45 days from the date of the request.

4 (ii) ~~In the absence of a showing by clear and convincing~~  
5 ~~evidence supporting the reasonable suspicion that the release of~~  
6 ~~the additional information withheld or redacted from a juvenile~~  
7 ~~case file pursuant to subdivision (d) of Section 10850.4 will~~  
8 ~~endanger or result in harm to the emotional or physical well-being~~  
9 ~~of a child or any other caretaker or other third party who is directly~~  
10 ~~or indirectly connected to the juvenile case file the court shall order~~  
11 ~~the requested information to be released. This showing shall~~  
12 ~~include, but need not be limited to, a showing as to why redaction~~  
13 ~~of personally identifiable information, made pursuant to subdivision~~  
14 ~~(d) of Section 10850.4, is not sufficient to avoid harm. If the harm~~  
15 ~~to the child can be resolved by the redaction of personally~~  
16 ~~identifying information, the court shall order the redacted~~  
17 ~~documents to be released.~~

18 (2) *Notwithstanding any other provision of law, including*  
19 *paragraphs (3) and (4), juvenile case files that pertain to a child*  
20 *who died as the result of abuse or neglect shall be released by the*  
21 *custodian of the records of the county welfare agency to the public*  
22 *pursuant to Section 10850.4.*

23 (3) Access to juvenile case files pertaining to matters within the  
24 jurisdiction of the juvenile court pursuant to Section 300 shall be  
25 limited as follows:

26 (A) If a juvenile case file, or any portion thereof, is privileged  
27 or confidential pursuant to any other state law or federal law or  
28 regulation, the requirements of that state law or federal law or  
29 regulation prohibiting or limiting release of the juvenile case file  
30 or any portions thereof shall prevail. Unless a person is listed in  
31 subparagraphs (A) to (N), inclusive, of paragraph (1) and is entitled  
32 to access under the other state law or federal law or regulation  
33 without a court order, all those seeking access, pursuant to other  
34 authorization, to portions of, or information relating to the contents  
35 of, juvenile case files protected under another state law or federal  
36 law or regulation, shall petition the juvenile court. The juvenile  
37 court may only release the portion of, or information relating to  
38 the contents of, juvenile case files protected by another state law  
39 or federal law or regulation if disclosure is not detrimental to the  
40 safety, protection, or physical or emotional well-being of a child

1 who is directly or indirectly connected to the juvenile case that is  
2 the subject of the petition. This paragraph shall not be construed  
3 to limit the ability of the juvenile court to carry out its duties in  
4 conducting juvenile court proceedings.

5 (B) Prior to the release of the juvenile case file or any portion  
6 thereof, the court shall afford due process, including a notice of  
7 and an opportunity to file an objection to the release of the record  
8 or report to all interested parties.

9 (4) A juvenile case file, any portion thereof, and information  
10 relating to the content of the juvenile case file, may not be  
11 disseminated by the receiving agencies to any persons or agencies,  
12 other than those persons or agencies authorized to receive  
13 documents pursuant to this section. Further, a juvenile case file,  
14 any portion thereof, and information relating to the content of the  
15 juvenile case file, may not be made as an attachment to any other  
16 documents without the prior approval of the presiding judge of the  
17 juvenile court, unless it is used in connection with and in the course  
18 of a criminal investigation or a proceeding brought to declare a  
19 person a dependent child or ward of the juvenile court.

20 (b) (1) While the Legislature reaffirms its belief that juvenile  
21 court records, in general, should be confidential, it is the intent of  
22 the Legislature in enacting this subdivision to provide for a limited  
23 exception to juvenile court record confidentiality to promote more  
24 effective communication among juvenile courts, family courts,  
25 law enforcement agencies, and schools to ensure the rehabilitation  
26 of juvenile criminal offenders as well as to lessen the potential for  
27 drug use, violence, other forms of delinquency, and child abuse.

28 (2) Notwithstanding subdivision (a), written notice that a minor  
29 enrolled in a public school, kindergarten to grade 12, inclusive,  
30 has been found by a court of competent jurisdiction to have  
31 committed any felony or any misdemeanor involving curfew,  
32 gambling, alcohol, drugs, tobacco products, carrying of weapons,  
33 a sex offense listed in Section 290 of the Penal Code, assault or  
34 battery, larceny, vandalism, or graffiti shall be provided by the  
35 court, within seven days, to the superintendent of the school district  
36 of attendance. Written notice shall include only the offense found  
37 to have been committed by the minor and the disposition of the  
38 minor's case. This notice shall be expeditiously transmitted by the  
39 district superintendent to the principal at the school of attendance.  
40 The principal shall expeditiously disseminate the information to

1 those counselors directly supervising or reporting on the behavior  
2 or progress of the minor. In addition, the principal shall disseminate  
3 the information to any teacher or administrator directly supervising  
4 or reporting on the behavior or progress of the minor whom the  
5 principal believes needs the information to work with the pupil in  
6 an appropriate fashion, to avoid being needlessly vulnerable or to  
7 protect other persons from needless vulnerability.

8 Any information received by a teacher, counselor, or  
9 administrator under this subdivision shall be received in confidence  
10 for the limited purpose of rehabilitating the minor and protecting  
11 students and staff, and shall not be further disseminated by the  
12 teacher, counselor, or administrator, except insofar as  
13 communication with the juvenile, his or her parents or guardians,  
14 law enforcement personnel, and the juvenile’s probation officer  
15 is necessary to effectuate the juvenile’s rehabilitation or to protect  
16 students and staff.

17 An intentional violation of the confidentiality provisions of this  
18 paragraph is a misdemeanor punishable by a fine not to exceed  
19 five hundred dollars (\$500).

20 (3) If a minor is removed from public school as a result of the  
21 court’s finding described in subdivision (b), the superintendent  
22 shall maintain the information in a confidential file and shall defer  
23 transmittal of the information received from the court until the  
24 minor is returned to public school. If the minor is returned to a  
25 school district other than the one from which the minor came, the  
26 parole or probation officer having jurisdiction over the minor shall  
27 so notify the superintendent of the last district of attendance, who  
28 shall transmit the notice received from the court to the  
29 superintendent of the new district of attendance.

30 (c) Each probation report filed with the court concerning a minor  
31 whose record is subject to dissemination pursuant to subdivision  
32 (b) shall include on the face sheet the school at which the minor  
33 is currently enrolled. The county superintendent shall provide the  
34 court with a listing of all of the schools within each school district,  
35 within the county, along with the name and mailing address of  
36 each district superintendent.

37 (d) Each notice sent by the court pursuant to subdivision (b)  
38 shall be stamped with the instruction: “Unlawful Dissemination  
39 Of This Information Is A Misdemeanor.” Any information received  
40 from the court shall be kept in a separate confidential file at the

1 school of attendance and shall be transferred to the minor's  
2 subsequent schools of attendance and maintained until the minor  
3 graduates from high school, is released from juvenile court  
4 jurisdiction, or reaches the age of 18 years, whichever occurs first.  
5 After that time the confidential record shall be destroyed. At any  
6 time after the date by which a record required to be destroyed by  
7 this section should have been destroyed, the minor or his or her  
8 parent or guardian shall have the right to make a written request  
9 to the principal of the school that the minor's school records be  
10 reviewed to ensure that the record has been destroyed. Upon  
11 completion of any requested review and no later than 30 days after  
12 the request for the review was received, the principal or his or her  
13 designee shall respond in writing to the written request and either  
14 shall confirm that the record has been destroyed or, if the record  
15 has not been destroyed, shall explain why destruction has not yet  
16 occurred.

17 Except as provided in paragraph (2) of subdivision (b), no  
18 liability shall attach to any person who transmits or fails to transmit  
19 any notice or information required under subdivision (b).

20 (e) For purposes of this section, a "juvenile case file" means a  
21 petition filed in any juvenile court proceeding, reports of the  
22 probation officer, and all other documents filed in that case or  
23 made available to the probation officer in making his or her report,  
24 or to the judge, referee, or other hearing officer, and thereafter  
25 retained by the probation officer, judge, referee, or other hearing  
26 officer.

27 *SEC. 3. Section 10850.4 is added to the Welfare and Institutions*  
28 *Code, to read:*

29 *10850.4. (a) Within five business days of learning that a child*  
30 *fatality has occurred in the county and that there is a reasonable*  
31 *suspicion that the fatality was caused by abuse or neglect, the*  
32 *custodian of records for the county child welfare agency, upon*  
33 *request, shall release the following information:*

34 *(1) The age and gender of the child.*

35 *(2) Whether the child was in foster care or in the home of his*  
36 *or her parents or guardian at the time of death.*

37 *(3) The date of death.*

38 *(4) The dates of previous child abuse or neglect referrals for*  
39 *the child and family, if any, the type or types of abuse or neglect*  
40 *alleged, and the disposition of those referrals.*

1     ***(b) All cases in which abuse or neglect leads to a child's death***  
2 ***shall be subject to the disclosures required in subdivision (c), if***  
3 ***one or more of the following conditions are met:***

4     ***(1) A county child protective services agency determines that***  
5 ***the abuse or neglect was substantiated or inconclusive.***

6     ***(2) A law enforcement investigation concludes that abuse or***  
7 ***neglect occurred.***

8     ***(3) A coroner or medical examiner concludes that the child who***  
9 ***died had suffered abuse or neglect.***

10    ***(c) Upon completion of the child abuse or neglect investigation***  
11 ***into the child's death, as described in subdivision (b), the following***  
12 ***documents from the juvenile case file shall be released upon***  
13 ***request by the custodian of records, subject to the redactions set***  
14 ***forth in subdivision (e):***

15    ***(1) All of the information in subdivision (a).***

16    ***(2) For cases in which the child's death occurred while in the***  
17 ***home of a parent or guardian, all previous referrals of abuse or***  
18 ***neglect for the child and family within five years of the death shall***  
19 ***be disclosed along with the following documents:***

20    ***(A) The emergency response referral information form and the***  
21 ***emergency response notice of referral disposition form completed***  
22 ***by the child welfare agency.***

23    ***(B) Any cross reports completed by the child welfare agency to***  
24 ***law enforcement.***

25    ***(C) The child welfare worker case notes or correspondence,***  
26 ***including logs of all contacts, services, and visits with the family.***

27    ***(D) All risk and safety assessments completed by the child***  
28 ***welfare services agency.***

29    ***(E) In cases in which a previous referral or referrals resulted***  
30 ***in the opening of a case where services are eventually provided***  
31 ***to the family with the child remaining in the home, child welfare***  
32 ***worker case notes or correspondence, including logs of all***  
33 ***contacts, services, and visits with the family.***

34    ***(F) All health care records related to injuries that were the***  
35 ***subject of previous referrals.***

36    ***(G) Police reports.***

37    ***(H) Child welfare worker notes on case consultations with***  
38 ***supervisors.***

1 (3) For cases in which the child's death occurred while the child  
2 was in foster care, the following documents in addition to those  
3 specified in paragraphs (1) and (2):

4 (A) The child's placement history.

5 (B) Records pertaining to the foster parents' initial licensing  
6 and renewals and type of license or licenses held.

7 (C) All reported licensing violations, such as notices of action.

8 (D) Reports of concern about the quality of care provided by  
9 the foster parents from whatever source.

10 (E) Records of the training completed by the foster parents.

11 (F) Records describing the frequency, extent, and nature of  
12 supervision of the foster home by the county welfare agency, and  
13 logs, narratives, and other reports relating to that supervision.

14 (G) Reports of concerns about the quality of care provided to  
15 the victim child or any other foster child who resided in the foster  
16 home during the most recent three years.

17 (H) Police reports.

18 (I) Child welfare worker notes on case consultations with  
19 supervisors.

20 (4) For all cases, the referral related to the child's death, all  
21 the information described in paragraph (2), and records  
22 concerning the cause and manner of death.

23 (d) The documents listed in subdivision (c) shall be released to  
24 the public by the custodian of records for the local child welfare  
25 agency within 10 business days of the request or the disposition  
26 of the investigation, whichever is later.

27 (e) Prior to releasing any document pursuant to subdivision  
28 (c), the custodian of the records shall redact the following  
29 information:

30 (1) The names, addresses, telephone numbers, ethnicity, religion,  
31 or any other identifying information of any person or institution,  
32 other than the county or the department of social services, that is  
33 mentioned in the documents listed in paragraphs (2), (3), and (4)  
34 of subdivision (c).

35 (2) Any information that would, after consultation with the  
36 district attorney, jeopardize a criminal investigation or proceeding.

37 (f) Upon receiving a request for the documents listed in  
38 subdivision (c), the custodian of records shall serve a copy of the  
39 request upon all interested parties. If any interested party,  
40 including the custodian of records, objects to the release of any

1 part of the documents listed in paragraphs (2), (3), and (4) of  
2 subdivision (c), they may petition the juvenile court for relief to  
3 prevent the release of any document or part of a document  
4 requested. That petition shall be filed and served within 10 business  
5 days on all interested parties of the request for documents, and a  
6 copy of the petition shall be served upon the person seeking the  
7 documents and upon the attorney for the deceased child. Along  
8 with a copy of the petition, the custodian of records shall include  
9 a notice that a response to the petition, if any, shall be filed within  
10 10 business days of receipt of the petition. The juvenile court shall  
11 set the matter for hearing no more than 45 business days from the  
12 date the petition is served.

13 (g) In the absence of a showing by a preponderance of evidence  
14 that the release of a part of the documents listed in paragraphs  
15 (2), (3), and (4) of subdivision (c) will harm a child, the court shall  
16 order the requested documents with the required redactions  
17 released. This showing shall include, but not be limited to, a  
18 showing as to why redaction of personally identifiable information  
19 is not sufficient to avoid the alleged harm. If the harm to the child  
20 can be resolved by the redaction of personally identifying  
21 information, the court shall order the redacted documents released.

22 (h) Documents from the juvenile case file, other than those listed  
23 in paragraphs (2), (3), and (4) of subdivision (c), shall only be  
24 disclosed upon an order by the juvenile court pursuant to Section  
25 827.

26 (i) Once documents pursuant to this section have been released  
27 by the custodian of records, the State Department of Social Services  
28 or the county welfare department may comment on the case within  
29 the scope of the release.

30 (j) Information released by a custodian of records consistent  
31 with the requirements of this section does not require prior notice  
32 to any other individual.

33 (k) Each county welfare department agency shall notify the State  
34 Department of Social Services of every child fatality that occurred  
35 within its jurisdiction that was the result of child abuse or neglect.  
36 The State Department of Social Services, after consultation with  
37 interested stakeholders, shall provide instructions by an all county  
38 letter regarding the procedure for notification.

39 (l) For purposes of this section, the following definitions apply:

1 (1) “Child abuse or neglect” has the same meaning as defined  
2 in Section 11165.6 of the Penal Code.

3 (2) “Interested party” has the same meaning as defined in  
4 subdivision (d) of Rule 5.552 of the California Rules of Court, as  
5 county counsel, district attorney, child, attorney of record for the  
6 child, the parent or guardian of the child, the parent or guardian’s  
7 counsel, and the probation department or child welfare services  
8 program, or both, if applicable.

9 (3) “Juvenile case files” include any juvenile court records of  
10 proceedings brought pursuant to Section 300, and any county  
11 welfare department or State Department of Social Services records  
12 regardless of whether they are maintained electronically or in  
13 paper form.

14 (4) “Substantiated or inconclusive” has the same meaning as  
15 defined in Section 11165.12 of the Penal Code.

16 (m) A person disclosing juvenile case file information as  
17 required by this section shall not be subject to suit in civil or  
18 criminal proceedings for complying with the requirements of this  
19 section.

20 (n) This section shall apply only to deaths that occur on or after  
21 January 1, 2008.

22 (o) Nothing in this section shall require a custodian of records  
23 to retain documents beyond any date otherwise required by law.

24 ~~SEC. 3. Section 10850.4 is added to the Welfare and~~  
25 ~~Institutions Code, to read:~~

26 ~~10850.4. (a) For the purpose of this section the following~~  
27 ~~definitions shall apply:~~

28 (1) ~~“Child abuse and neglect” means the same as defined in~~  
29 ~~Section 11165.6 of the Penal Code.~~

30 (2) ~~“Near fatality” means a severe childhood injury or condition~~  
31 ~~caused by abuse or neglect that results in the child receiving critical~~  
32 ~~care for at least 24 hours following the child’s admission to a~~  
33 ~~critical care unit.~~

34 (3) ~~“Reasonable suspicion” means the same as defined in Section~~  
35 ~~11166 of the Penal Code.~~

36 (4) ~~“Substantiated report” or “substantiated” means the same~~  
37 ~~as defined in Section 11165.12 of the Penal Code.~~

38 (b) (1) ~~Upon request, a custodian of a juvenile case file within~~  
39 ~~a county welfare department shall release a juvenile case record,~~  
40 ~~subject to the limitations set forth in subdivision (d), relating to a~~

1 substantiated case of child abuse or neglect that resulted in a child's  
2 fatality or near fatality, whether the case was substantiated by the  
3 county welfare department's own investigation, or that of law  
4 enforcement, within 10 days from the request, or upon the  
5 disposition of the investigation, whichever happens later.

6 ~~(2) Prior to a county welfare department's substantiation of a~~  
7 ~~case of child abuse or neglect that resulted in a child's fatality or~~  
8 ~~near fatality, upon request, a custodian shall release information~~  
9 ~~about the juvenile case file, no later than 10 days from the request,~~  
10 ~~limited to only the following:~~

11 ~~(A) Whether an abuse report has been made.~~

12 ~~(B) Whether an investigation has been initiated.~~

13 ~~(C) The results of the investigation upon completion.~~

14 ~~(e) Upon the release of a juvenile case file by the custodian of~~  
15 ~~records, the State Department of Social Services or county welfare~~  
16 ~~department may comment on the case within the scope of the~~  
17 ~~release.~~

18 ~~(d) Any juvenile case file records released pursuant to this~~  
19 ~~section, shall have the following information redacted prior to their~~  
20 ~~release:~~

21 ~~(1) The name, address, telephone number, or any other~~  
22 ~~identifying information of a child who is the subject of a near~~  
23 ~~fatality.~~

24 ~~(2) The names, addresses, telephone numbers, or any other~~  
25 ~~identifying information of another child, caretaker, or other third~~  
26 ~~party who is directly or indirectly connected to the juvenile case~~  
27 ~~file that is the subject of the release, any personal information~~  
28 ~~under which there is a reasonable suspicion that the release would~~  
29 ~~be detrimental to the safety, protection, or physical or emotional~~  
30 ~~well-being of an individual, so long as that information is not~~  
31 ~~relevant to the circumstances of the child's fatality or near fatality.~~  
32 ~~Nothing in this paragraph shall be used to exclude the release of~~  
33 ~~nonidentifying personal information of a person involved in the~~  
34 ~~fatality or near fatality.~~

35 ~~(3) The names, addresses, telephone numbers, or any other~~  
36 ~~identifying information of any individual reporting abuse or neglect~~  
37 ~~of a child.~~

38 ~~(4) The names, addresses, telephone numbers, or any other~~  
39 ~~identifying information of any county or state personnel referred~~  
40 ~~to in the juvenile case file.~~

1 ~~(5) Any information that would jeopardize a criminal~~  
2 ~~investigation or proceeding.~~

3 ~~(e) (1) Every county welfare department shall notify the~~  
4 ~~department of any child fatality or near fatality that occurred within~~  
5 ~~its jurisdiction that was the result of child abuse or neglect.~~

6 ~~(2) The department shall, after consulting with interested~~  
7 ~~stakeholders, provide each county with instructions, in the form~~  
8 ~~of an all-county letter, regarding the method of notification required~~  
9 ~~under paragraph (1).~~

10 ~~(f) The department shall provide a summary of the information~~  
11 ~~provided pursuant to subdivision (e) that contains findings and~~  
12 ~~information about each case of child abuse or neglect that has~~  
13 ~~resulted in a child fatality or near fatality. The department shall~~  
14 ~~prepare and release to the public an annual report that identifies~~  
15 ~~systemic issues or patterns resulting from these cases. All~~  
16 ~~summaries and reports created pursuant to this subdivision shall~~  
17 ~~be made available to the public in an electronic format.~~

18 ~~(g) The department may adopt regulations and rules as may be~~  
19 ~~necessary to implement this section.~~

20 SEC. 4. If the Commission on State Mandates determines that  
21 this act contains costs mandated by the state, reimbursement to  
22 local agencies and school districts for those costs shall be made  
23 pursuant to Part 7 (commencing with Section 17500) of Division  
24 4 of Title 2 of the Government Code.